otherwise to explain why they were not called. Finally there is a conflict of evidence between the complainant herself and the third witness with regard to the lamp. Complainant's story was that she was able to recognise the accused because the lamp in her room was still burning, whereas the third witness states that when he went to the complainant's room only a few minutes later there was no lamp on in the room.

Taking all these matters into consideration and the fact that the Magistrate himself appears to have had some doubt in the matter I came to the conclusion that this was a case in which it was unsafe to convict and I decided to act in revision and to reverse the learned Magistrate's Order. The accused was accordingly acquitted.

Accused acquitted

HAJI MOHAMED BIN HAJI BAHAUDIN v. RADIAH BINTI ZAINUDIN.

[Orig. Civ. Juris. (Thomson, J.), January 25, 1950]

[Ipoh — Bankruptcy No. 25 of 1949]

Bankruptcy Notice — Bankruptcy Enactment, s. 4(i)(i) — Whether Bankruptcy Notice can be founded on Kathi's order for maintenance — Courts Enactment (Cap. 2), s. 66.

A Bankruptcy Notice under s. 4 (i) (i) of the Bankruptcy Enactment (Cap. 55) cannot be founded on an unsatisfied order for maintenance made by a Court of a Kathi.

Case referred to :—

(1) *In re a Bankruptcy Notice* (1907) 1 K.B. 482.

APPLICATION IN BANKRUPTCY.

Parties in person.

Thomson, J. : — This is an application to set aside a Bankruptcy Notice which was issued on two unsatisfied orders for maintenance made by the Chief Kathi for Perak. The only question that arises is whether a bankruptcy notice can be founded on such an order.

That question is to be decided on a construction of section 4 (i) (i) of the Bankruptcy Enactment and section 66 of Chapter 2 of the Laws of the Federated Malay States which is the only existing provision for the enforcement of orders made by Kathis' Courts and which reads as follows :—

"66. — In the event of any lawful order made by a Court of a Kathi . . . not being obeyed, such Court may report the matter, with a copy of all proceedings therein, to a Court of a Magistrate of the First Class within the same district and thereupon it shall be the duty of such last-mentioned Court either to enforce such order as though it were an order made by itself or to send it to another Court for execution."

In my opinion the point can be most satisfactorily disposed of by reference to certain observations by Fletcher Moulton, L.J., in the case of *In re a Bankruptcy Notice*[1]. The question in issue in that case was whether a Bankruptcy Notice could be founded on an arbitration award. His Lordship was of the opinion that it could not and in the course of his judgment to that effect he said :—

"The powers of the Court as to giving effect to such an award in such an arbitration are defined by s. 12 of the Arbitration Act, 1889. That section provides that "an award on a submission may by leave of the Court or a judge be enforced in the same manner as a judgment or order to the same effect." But it gives no power to turn such an award into a judgment. It gives to the award the same status as a judgment for the purpose of enforcement, but it leaves it what it was before, viz., an award. . . . . The only other question is as to whether the procedure under s. 4, sub-s. 1 (g), of the Bankruptcy Act, 1883, is an enforcement within the meaning of s. 12 of the Arbitration Act, 1889. In my judgment an application for a bankruptcy notice is not a method of enforcing a judgment. It is the commencement of proceedings of far wider effect, and is not intended to be included in the words of s. 12 of the Arbitration Act."

So far as the question before me here is concerned, I can see no material difference either between section 12 of the Arbitration Act and section 66 of Chapter 2, or between section 4 (i) (g) of the Bankruptcy Act, 1883, and section 4 (i) (i) of the local Bankruptcy Enactment. By parity of reasoning with the passage which has been quoted, I am compelled to the conclusion that section 66 gives the Kathi's Court order the status of a Magistrate's Court for the purpose of enforcement but it leaves it what it was before, that is a Kathi's Court order, and that procedure under section 4 (i) (i) of the Bankruptcy Enactment is not an enforcement under section 66.

The application is accordingly allowed and the bankruptcy notice to which it relates set aside.

Notice set aside.

IN RE LAI TENG FONG DECEASED; YAP KWEE YING v. LAI KIM FOH.

[Orig. Civ. Juris. (Laville, J.) December 3, 1949]

[J.B. — Probate Suite No. 1 of 1948]

Marriage — Chinese marriage — Evidence of cohabitation and common repute.

On the 15th October, 1947, Yap Kwee Ying the petitioner herein filed a petition to administer the estate of Lai Teng Fong deceased, who was killed by the Japanese on 24th February, 1942. On the same date, one Lai Kim Foh entered a caveat to the petition and claimed to have